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January 3, 1995

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VIA MESSENGER EXPRESS

Secretary
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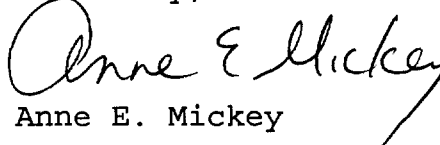
Re: CC Docket No. 94-129

Dear Sirs:

Enclosed are an original and nine copies of the Comments of Hertz Technologies, Inc. in the above-captioned docket. Also enclosed is an extra copy to be stamped "received" and returned to the messenger.

Please contact Rebecca Reed (405) 720-5019 or me if you need additional information.

Sincerely,


Anne E. Mickey

AEM:rmc

Enclosures

cc: Formal Complaints Branch, Enforcement Division
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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

FCC 94-292

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In the Matter of

Policies and Rules Concerning
Unauthorized Changes of Consumers'
Long Distance Carriers

CC Docket No. 94-129

COMMENTS OF HERTZ TECHNOLOGIES, INC.

Hertz Technologies, Inc. ("Hertz") has the following comments in the above-captioned matter currently being considered by the Federal Communications Commission ("FCC"). Hertz is a reseller of interexchange telecommunications services.

Unfortunately, circumstances have led to the need for more rigid regulations regarding changing a customer's Primary Interexchange Carrier ("PIC") code. One of these circumstances is when a Local Exchange Carrier ("LEC") or underlying carrier does not accept a verbal Letter of Agency ("LOA"), even though current FCC regulations allow this type of LOA (47 C.F.R. §64.1100). When an Interexchange Carrier ("IXC") is dealing with a LEC or underlying carrier that does not adhere to the FCC regulations, the IXC must find some incentive to get a written LOA from the customer. One way of doing this is to offer the customer a debit card if it will return the signed LOA. Unfortunately, there are many IXCs that are trying to "slam" customers and use the same type of promotion to do so.

Hertz suggests that when utilizing telemarketing sales channels, the LEC and/or underlying carrier be required to accept a verbal LOA from the IXC if in compliance with FCC regulations. This would eliminate the need for the IXCs to find ways to get a signed LOA from the customer.

Notwithstanding Hertz' above-stated comments and suggestions, Hertz would like to offer the following comments as a possible alternative should it not be feasible to require the LECs and/or underlying carriers to accept verbal LOAs.

Section III., Subsection A., Paragraph 7.

Hertz agrees with the FCC as to the usefulness and importance of the LOA. Hertz does suggest that the FCC require specific language to be included in an LOA, however being mindful of the vast differences in state regulations as well as LEC requirements.

Section III., Subsection A., Paragraph 9.

Hertz would like to suggest that LOAs in relation to telemarketing practices remain unchanged from the adopted rules and procedures for verification of long distance service telemarketing sales found in the PIC Change NPRM^{1/} and the subsequent PIC Verification Order^{2/} and PIC Verification Reconsideration Order^{3/}. Specifically, the Interexchange Carrier ("IXC") should continue to be allowed to obtain the customer's verification by an independent third party. The FCC should consider requiring specific

1/ PIC Change NPRM, 6 FCC Rcd 1689 (1991).

2/ PIC Verification Order, 7 FCC Rcd 1038 (1992).

3/ PIC Verification Reconsideration Order, 8 FCC Rcd 3215 (1993).

language to be used by the independent verifier that would ensure 1) the customer's complete understanding of what the PIC change is, and 2) the customer's complete understanding of who their carrier will be (a reseller would be allowed to state who the underlying carrier will be should it choose to do so).

Section III., Subsection A., Paragraph 10.

Hertz agrees that the LOA should contain clear and unambiguous language. Hertz also suggests that the telephone number(s) should be preprinted directly on the LOA to avoid confusion by the Carrier/Reseller due to possible illegible handwriting. Hertz agrees that required changes by the FCC could be implemented without difficulty.

Section III., Subsection A., Paragraph 11.

Hertz agrees that the customer can be easily confused by the many inducements currently being distributed. Hertz would like to suggest that the FCC consider comments made previously and require the LECs and/or underlying carriers to accept verbal LOAs that meet FCC regulations.

Section III., Subsection B., Paragraph 14.

Hertz suggests that the LOA list the IXC's name that will be setting the rates and actually selling the services. However, a reseller should have the option of stating who the underlying carrier will be should it choose to do so.

Section III., Subsection B., Paragraph 15.

Hertz suggests that residential and business LOAs should be treated differently regarding the necessary signature. Business customers should be made aware, either by cover letter or directly on the LOA, that only a person authorized to make changes to the

company's long distance service is authorized to sign the LOA. Since such persons will be operating with the apparent authority of the business customer, IXC's should be permitted to rely on these LOAs and hold the business customers responsible.

Section III., Subsection B., Paragraph 16.

Hertz suggests that customers should be absolved of liability when it is proven they were "slammed" by an IXC. If a customer is "slammed" it was not actually utilizing the optional calling plan services and therefore should not be required to pay for the services not used.

Section III., Subsection B., Paragraph 17.

Hertz suggests that the customers should be required to pay for the services utilized with regard to IXC, even if the consumer was "slammed." However, the customer should only be required to pay the rate it would have paid had it not been moved without authorization.

Section III., Subsection B., Paragraph 18.

Hertz answers "yes" to the FCC question, "Should we require all parts of the LOA to be translated if any parts are translated?"

Section III., Subsection B., Paragraph 19.

Hertz suggests that an 800 number used for telemarketing verification purposes would not be in the best interest of the customer. Typically, an 800 number is used as a tool for consumer solicitation and combining this solicitation practice with an FCC requirement for a verbal LOA would be hazardous.

Proposed Rule §64.1150

Hertz agrees with the requirements of proposed rule §64.1150 where written LOAs are required. The requirements in paragraph (d) could also be met when LOAs are verified verbally.

Respectfully submitted,

HERTZ TECHNOLOGIES, INC.

A handwritten signature in black ink, appearing to read "Rebecca L. Reed".

Rebecca L. Reed

Tariff Analyst

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January 3, 1995